

In The United States District Court  
For The Southern District of Texas  
Houston Division

United States Courts  
Southern District of Texas  
FILED

09 2020

Dwight Russell, et al.,  
(Devin Paul Cole - Similarly)  
(Situated Harris County Jail)  
Inmate,

David J. Bradley, Clerk of Court

Plaintiffs, § Civil Action Number  
vs. § H-19-226

Harris County, Texas, et al.,  
Defendants. § (Honorable Lee H. Rosenthal  
Chief United States District  
Judge  
Presiding)  
§

Plaintiff's Third Emergency Motion to

Compel Compassionate Release of Homeless

Plaintiff On A No Cash Bail Bond Due to  
Age 55, Immunocompromised, Alarming Increase  
In COVID Cases, No Evidence of Physical Harm  
to Anyone and Newly Discovered Evidence Under  
Brady v. Maryland that Complainant Evan Kar-  
tal Arisan is a Two Time Convicted Child Mo-  
lestor, Pedophile, Sexual Predator-Sex Offender

To The Honorable Lee H. Rosenthal, Chief United States District Judge, Presiding:

Comes Now, Devin Paul Cook, Plaintiff in pro se and files this Plaintiff's third Emergency Motion to Compel Compassionate Release of Homeless Plaintiff On a No Cash Bail Bond or Personal Recognition Bond, etc., Due to Age 55, Immunocompromised, Alarming Increase In COVID Cases, No Evidence of Physical Harm to Anyone and Newly Discovered Evidence Under Brady v. Maryland that Com-

plaintant Evan Kartal Arisan is a Two Time Convicted Child Molestor, Pedophile, Sexual Predator - Sex Offender and is Lying - Perjuring himself.

In support thereof Plaintiff would respectfully show unto this Honorable Court as follows:

I.

Update of Factors to Chief Judge Rosenthal

With Written Objections Made Vigorously and

Brief in Support

On October 1<sup>st</sup>, 2020 Plaintiff began representing himself after a Faretta Compliant Hearing. Since that time he has been to Court a number of times - approximately 10 times - 5 on Zoom Skype Internet/Laptop - 5 in Court. Numerous dates plaintiff was not allowed into Court because just since October 1<sup>st</sup>, 2020 at which time I was transferred from the 5<sup>th</sup> Floor of the 1200 Baker Jail to the 3<sup>rd</sup> Floor of the Jail. This occurred because after going out into the jail hallway on the 5<sup>th</sup> Floor to line up for Court, my faretta Hearing, noticing I had

10-1-20

forgotten my inhaler and neglected to take my blood-pressure medicine I went back into the 5-H-I Tank to get these things and discovered 3 young inmates stealing all of my coffee, food, toothpaste items from my property bag, an argument ensued and they threatened to beat the fuck out of me upon my return from Court so when I got back I spoke to the Sergeant on duty explained, identified the 3 inmates, (in which I am supposed to be kept separate from now) and wrote a statement against them. Then I was transferred for my safety.

From 2/27/2020 (February) to 10-1-2020 (October) I was housed in 5-H-I during that time I became infected with Coronavirus (COVID 19) two times. One time in April the second time end of June into July. Second time I had a pretty good fever 101°-102° for about 7 days maybe 9 days, fever probably made it to 103° a few days. It took over a month to get through all of this.

On 10-1-2020 when I came back from Court (A Faretta v. California) hearing at which time my Faretta Motion / Request to represent myself was Granted. To be "partially protected from an immediate threat of being assaulted by 3 young healthy gang member inmates" after arguing with the Shift Supervisor to transfer me to another area of the jail I was

moved to the 3<sup>rd</sup> Floor (3D-1B) a 24 man tank. Most all of the people placed in 3D-1B have been "beaten" up, assaulted, extorted, robbed, victimized and abused in other areas of the jail. Although, per se this is not Protective Custody. "Because within the Harris County Jail, per Classification Officer's, there is no protective custody housing in the Harris County Jail comprising all 3 jail's 0701, 1200 and the CTPC.

Since October 1<sup>st</sup>, 2020 the 3D-1B Tank has been placed on (COVID-19) Coronavirus Quarantine 3 Times due to someone or two or three inmates being transferred/moved because of running a fever and coming down with (Covid-19) Coronavirus. Each time for 10 to 15 days.

## II.

Today, December 2<sup>nd</sup>, 2020, 3,000 (three thousand and new case's of (COVID-19) Coronavirus were confirmed in Harris County the most ever recorded. The disease is now at its worst since it began.

One thing is Clear, Judge's in Harris County (Houston) Texas "have No Compassion." There has not been one Compassionate Release Order for one

indigent pre-trial detainee. My hair is nearly to the shoulder blade's of my upper back because "no haircuts" since COVID. How can you say I have not been punished severely without a Trial By Jury of my peers when I've been continuously confined day in and day out by the Sheriff whom has knowledge of my confinement (No inmate's filed more legal papers with the Courts than I have)? How is Loss of Society for the whole year of 2020 - "Not Punishment"?

How am I "presumed innocent"? My next Court Date is January 19<sup>th</sup>, 2021. This is Official Oppression.

### III

Plaintiff file's these Motion's Now:

1.) Motion to Compel a Temporary Restraining Order (TRO) seeking the identical relief sought and Denied on April 14<sup>th</sup>, 2020 by Plaintiff's Attorneys in Russell v. Harris County, 2020 U.S.Dist.Lexis 64989 as stated below:

"The Plaintiffs ask this court to authorize the Harris County Sheriff to release many felony arrestees,

p.5 (6)

who have not had a trial or been convicted and cannot post the upfront payment based on bail-schedule amounts, if they do not promptly get formal, individualized evidentiary hearings to determine whether they could be safely released on a personal bond. The plaintiffs also ask this court to overturn as unconstitutional part of Governor Greg Abbott's Executive Order GA-13, which limits state district judges' discretion to issue personal bonds during the COVID-19 crisis. " "

The jail population has not been reduced. The jail population is less than one percent (1%) different today than it was on February 1<sup>st</sup>, 2020.

Plaintiff has reviewed the Body Worn Camera (BWC) video footage as has Chief Ass. D.A. Maegen Williams and A.D.A. Patricia Fernandez, along with Judge Abigail Anastasio, the video clearly and convincingly shows that Plaintiff is standing perfectly still "stationary" on a sidewalk and is not in the street, near the complainant (<sup>but a</sup> one city block away from the complainant) and I am "not" chasing the complainant with a knife. This case should be dismissed, with prejudice.

At a Michael Morton Act / Brady v. Maryland Zoom / Laptop viewing of the Dash Camera and Body Worn Camera Video of at least (3) officers who responded to the scene. All video's show that I (Plaintiff) Defendant in state court 1666250 am standing still on the sidewalk. I am not

in motion. In Scott v. Harris the U.S. Supreme Court held;

"When opposing parties tell two different stories, one of which is blatantly contradicted by the record, so that no reasonable jury could believe it, a court should not adopt that version of the facts for purposes of ruling on a motion for summary judgement. Citing Scott v. Harris, 550 U.S. 372 (2007).

"That was the case here with regard to the factual issue whether respondent was driving in such fashion as to endanger human life. Respondent's version of events is so utterly discredited by the record that no reasonable jury could have believed him. The Court of Appeals should not have relied on such visible fiction; it should have viewed the facts in the light depicted by the videotape." Citing Scott v. Harris, 550 U.S. 372, 127 S.Ct. 17690 167 L.Ed. 2d 686 (2007 U.S. Lexis 4748).

"Visible Fiction" is exactly what the "chase with a knife" claim amounts to. One other word defines it as well a "lie." Lying is something that happens a lot. One Officer, Officer Day says "When we got the call... we were just a few blocks away... I" imagine "he was chasing

him. I" imagine. "The officers are lying. The videotape reveals that I am innocent as I've said all along. And why would the Harris County District Attorney's Office give "heightened credibility" to a Sex Offender / Pedophile / Child Molester. His statements carry's no credible legal weight. This entire case is a Mockery of Justice, a Miscarriage of Justice and a Malicious Prosecution of someone who is Innocent.

The videotape also shows the complainant laughing while talking to police about the incident. Not shaken up like someone "chased with a knife."

These videotapes can be viewed easily as they are "on line" from my understanding. Attorney Thomas Lewis reviewed them and state's in a letter dated July 27<sup>th</sup>, 2020, "The video does not actually show you chasing the manager of Katz with a knife." The Supreme Court says in Scott v. Harris, i.d., the facts should be viewed in the light depicted by the videotape. See Plaintiff's Exhibit-B-attached.

There are no injuries. Complainant does not have a scratch on him - not a hair from his head harmed. He is 31 years old. Six foot and one inch's tall and weighs 160 lbs. In excellent physical condition. Why would I chase someone I can't catch. I, due to health problem's cannot run. The point I am getting at is there is no

evidence in the record of this case that prove's are shows I am a threat to public safety. Not one shread of evidence showing I harmed any person physically in any way. The Chief Prosecutor Maegen Williams argued Complainant's statements as if she was there and he was an outstanding Law Abiding Citizen to Deny (or) get the Judge to Deny my pre-trial habeas corpus request for a Personal Recognizance Bond 4 different times knowing all along since March 1<sup>st</sup>, 2020 that the Complainant Evan Kartal Arisan is a Convicted Child Molester / Pedophile / Convicted Felon who has served time in TDC - State of Texas Prison. See Plaintiff's Exhibit - A - Attached - State's Notice Under Brady v. Maryland - Certified Document # 9292-4962 - by Assistant District Attorney Patricia Fernandez. See also Plaintiff's Exhibit - C - State Katz - Subpoena - attached. (3/15/2020)

So you see Judge Rosenthal it appear's I've been telling the truth all along. I did not assault anyone with or without a knife. HPD officer's when arresting me should have ran a background check on Evan Kartal Arisan instead of me. Houston Police know that, when they put homeless people in jail for misdemeanors they will be released probably within 30 day's but when they "fabricate a violent charge of a felony" they will stay in jail a long, long time.

IV.Legal Argument and Authorities

A society can be gauged by how it treats the very least of those within it. Here, especially in Houston (Harris County) Texas, the treatment is arbitrary, caprice, biased, based on the amount of money you have and how well connected you are to government official's, lawyer's and the DA's Office. Wealth based Representation by Court Appointed Attorney's Versus retained lawyer's is an issue that should be visited by the Courts. How many person's convicted and received a sentence of 50 years to Life to Death Penalty had Court Appointed Attorney's? 92 out of 10 my estimate.

Homeless person's living on the streets of Houston have a 10 times greater likelihood of having a bad experience with police, and being confined in jail than other non-homeless citizens. Poverty, populates the prisons one Justice penned.

Plaintiff cite's the 5<sup>th</sup> Circuit U.S. Court of Appeals decision in O'Donnell I and O'Donnell II in support of his motion.

In O'Donnell I, in its original conclusion that the imposition of automatic bail violated due process, the panel "boiled down" the violation to this situation: [O'Donnell v. Harris County, (O'Donnell I) is cited 892 F.3d 147 (2018 - Lexis 14578)]:

(in this case substitute one word for misdemeanor)

"[Take] two (misdemeanor) felony arrestee's who are identical in every way - same charge, same criminal backgrounds, same circumstances, etc. except that one is wealthy and one is indigent... One arrestee is able to post bond, and the other is not. As a result, the wealthy is less likely to plead guilty, more likely to receive a shorter sentence or be acquitted, and less likely to bear the social costs of incarceration. The poor arrestee by contrast, must bear the brunt of all of these, simply because he has less money than his wealthy counterpart. The district court held that this state of affairs violates the equal protection clause and we agree. Citing O'Donnell I, 892 F.3d @ 163.

"The last piece is critical. Detention of indigent arrestees and release of wealthier ones is not constitutionally infirm purely because of the length of detention. Instead, the court considered the consequences of such detention: the likelihood of pleading guilty, the ultimate sentence given, and the social cost of a potentially lengthy pretrial incarceration caused by an unconstitutional bail system." Citing O'Donnell v. Goodhart, 900 F.3d 220 (5th Cir. 2018).

Plaintiff would move to compel this Court to open up the case at hand in the dissent of the Honorable

James E. Graves, Jr., Circuit Judge of the Fifth Circuit United States Court of Appeals where he held:

"Harris County's unconstitutional bail practices will continue to deny equal protection and due process to indigent misdemeanors (and now felonies) arrestees unless the amended preliminary injunction is fully and immediately implemented. Such a denial is a mist in a country dedicated to affording equal justice to all and special privileges to none in the administration of its criminal law." Citing Griffin v. Illinois, 351 U.S. 12, 19, 76 S.Ct. 585, 100 L.Ed. 891 (1956).

The Fifth Circuit and this Court are bound to follow the previous decisions and holdings in Pugh v. Rainwater, 572 F.2d 1053 (1978 App. U.S. Lexis 11245) and Anderson v. Nossler, 438 F.2d 183 (1971 U.S. App. Lexis 11905); We acknowledged that the cited Supreme Court cases applied to indigents who were already found guilty... Regardless of its timing, "imprisonment solely because of indigent status is invidious discrimination and not constitutionally permissible." Rainwater @ 1056 concluding the "punitive and heavily burdensome nature of pretrial confinement" and the fact that it deprives someone who has only been "accused but not convicted of crime" of their basic liberty "a punitive measure out of harmony with the presumption of innocence." We are bound by this analysis." Anderson, O'Donnell @ FT Note 6.

\* [On a great deal of medication including 188 mg. Phenobarbital Daily for Seizure Disorder / Epilepsy.]

I am immunocompromised because I am 55 years old and have the following physical impairments:

1.) Tuberculosis Exposure - 1993

I N/T Medicine - 6 month's

X-Rays of Lung's Annually;

2.) High Blood Pressure, Tachocardia  
Myocardiac Inflammation (Chest Pain)  
Out-of-Breath easily; history heat  
Stroke's / heat Exhaustion;  
Impaired Oxygen Uptake;

3.) Epilepsy / Seizure Disorder;

4.) Clinical Major Depression;

5.) Suffered COVID-19 (Coronavirus);  
twice in Harris Co. Jail (April / July)

6.) Broken Finger; fractured Left

Elbow in Jail - did not come in with them;

7.) Hepatitis C - Cirrosis / Cancer

beginning due to no treatment w/ disease

41 years - Severe liver damage;

8.) Thyroid Dysfunction;

9.) Tired easily; Immune System  
Compromised Severely;

Judge Rosenthal please give a copy of this document to Judge Eskridge so I don't have to write out another one. I have a broken finger and I don't have anymore copies of complainant (Kartal's) child molester felony Criminal record. Arisan's

A Court Order should be sent to Katz Deli terminating Evan Kartal Arisan's employment there because he is a Registered Sex Offender (who may have failed to Register properly), and innocent young children go to the restaurant/deli - Katz Deli on Westheimer with their parents to eat lunch, dinner, etc. Arisan should not be allowed to work anywhere where children are. (Period. Paragraph.) If you searched his cell phone now I wonder what you might find. Additionally, the date of my arrest he had a cell phone in his hand why wouldn't he have filmed me if I had charged at him or was waving a knife? The reason. Because I did not chase him with a knife. He should be charged with Aggravated Perjury.

Where Patricia Fernandez and Magen Williams Harris County Prosecutors know now and have known since March 1<sup>st</sup>, 2020 Evan Kartal Arisan whom works at Katz Deli at 6116 Westheimer Road Houston, Texas 77006 - (713) 521-3838 that Evan Kartal Arisan is a Convicted Felony Child Sex Of-

ender and has the following criminal history:

1) \* Cause No. 1409666 CDI: 003  
→ Poss Child Pornography / Court: 230<sup>th</sup>  
District Court of Harris County, Texas  
Disposition Date: 6/13/2014  
Convicted - Guilty Plea - No Jury  
Sentence - 2 Years TDC;

2) \* Cause No. 1409665 CDI: 003  
→ Possession of Child Pornography / Court:  
230<sup>th</sup> District Court of Harris County, TX  
Disposition Date: Convicted - Guilty Plea -  
No Jury / Sentence: 2 years TDC

\* Katz Deli - (713) 521-3838 / 616 Westheimer Rd.  
Houston, Texas 77001 - Manager Evan Kartal Arisan  
Katz Deli serves children. Parents bring their children there to eat. There is no difference relevant to Katz Deli and a McDonald's with a Play-Ground. Child Molesters do not belong there and should not be allowed to work there. I am requesting his Employment Permanently Terminated and to Verify He is properly Registering as a Sexual Predator - Child Sex Offender. He should also be prosecuted for Perjury and Filing a False Police

Report, not to mention Failing to Register Properly as a Child Sex Offender.

Judge Rosenthal and Judge Eskridge I am asking both of you to have a Federal Prosecutor of your court's (Assistant United States Attorney) prosecute Evan Kartal Arisan and have his employment at Katz Deli located at 6116 Westheimer Road Permanently Terminated for the safety of children in the community. Additionally, his computer usage should be investigated to see if he is actively engaged in more pedophile - child molesting - child pornography behavior.

Wherefore, Premises Considered, Plaintiff prays that the Court Grant him the relief to which he may be entitled in these proceeding's and for such further relief to which he may be entitled under the Due Process "Fundamental fairness" and Equal Protection Clause's of the Fourteenth Amendment to the United States Constitution, Principle's of Actual and Factual Innocence, the Michael Morton Act, Brady v. Maryland, United States v. Bagley, Odonnell I, Pugh v. Rainwater 572 F 2d 1063 (1978) and, Anderson v. Nossler, 438 F. 2d 183, as law, justice, equality and the Constitution may so require.

So moved and prayed Plaintiff prays for all relief sought herein and further as the Court deems appropriate. Noting the County now admits to 6 inmate deaths in the jail because of (COVID-19) Coronavirus.

"Executed and Sworn to on this 4<sup>th</sup> day of December, 2020."

Respectfully submitted,

Devin Paul Cole  
Devin Paul Cole  
Plaintiff / Pro Se

(Unsworn Declaration by Inmate)

"I, Devin Paul Cole, SPN # 02145549, an inmate confined in the Harris County Jail in Harris County (Houston) Texas declare under penalty of perjury that the above and forgoing Plaintiff's Motion for Compassionate Release. (COVID/Pandemic) and, the factual allegations contained in same are in all things true and correct."

"Executed and Sworn to  
on this 4<sup>th</sup> day of  
December, 2020."

Respectfully submitted,

Devin Paul Cole  
Devin Paul Cole  
Plaintiff

- A -

Appendix of Exhibits / Attached  
Russell vs. Harris County (Rosenthal)  
and Devin Cole vs. Harris County (Eskridge)

\* Exhibit-A - States Notice Evan Kartal  
Arisan is a Sex/Child Offender  
(Criminal Background) Molester / Pedophile by  
ADA - Patricia Fernandez

\* Exhibit-B - Letter from X-Attorney  
Thomas J. Lewis dated  
July 27<sup>th</sup>, 2020 stating  
"..video does not show me chasing  
the Katz manager with a knife."

\* Exhibit-C - Subpoena Application to Katz  
Deli - 6160 Westheimer Road  
Houston, Tx. 77006 (713) 521-3838

\* Exhibit-D - Copy of Defendant's Motion to  
Dismiss Prosecution - Complain-  
ant Sex Offender / Child Molester

(- A -)

Appendix of Exhibits

A  
\_\_\_\_\_  
Filed 20 November 03 P4:55  
Marilyn Burgess - District Clerk  
Harris County  
EA001\_604265  
By: M MARTINEZ

CASE NO. 1666250

THE STATE OF TEXAS § IN THE 184<sup>TH</sup>  
VS. § DISTRICT COURT OF  
DEVIN PAUL COLE § HARRIS COUNTY, TEXAS

**STATE'S NOTICE UNDER *BRADY v. MARYLAND***

COMES NOW, the undersigned Assistant District Attorney and files this State's Notice under *Brady v. Maryland* and would show the Court the following:

1. The above cause number is pending in this Court and is set for trial on November 18, 2020
2. In addition to defense counsel's access to the State's open file, the undersigned Assistant District Attorney hereby gives this notice to Defendant and his counsel.

State's Witness EVAN KARTAL ARISAN, has the following criminal history:

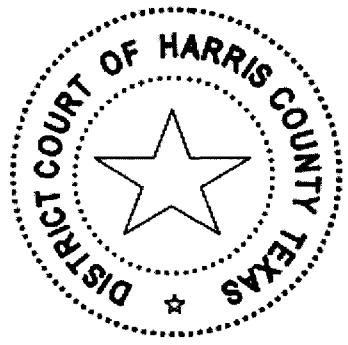
Cause: 140966601010 CDI: 003  
POSS CHILD PORNOGRAPHY Crt: 230 Disp Date: 6/13/2014  
Disposition: CONVICTED - GUILTY PLEA-NO JURY  
Sentence: 2 YEARS TDC

Cause: 140966501010 CDI: 003  
POSS CHILD PORNOGRAPHY Crt: 230 Disp Date: 6/13/2014  
Disposition: CONVICTED - GUILTY PLEA-NO JURY  
Sentence: 2 YEARS TDC

Respectfully submitted,

/s/ Patricia Fernandez  
Patricia Fernandez  
Assistant District Attorney  
Harris County, Texas  
713.274.0481

A  
\_\_\_\_\_  
- A -



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this November 11, 2020

Certified Document Number: 92924962 Total Pages: 2

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com**

THOMAS J. LEWIS

ATTORNEY AT LAW  
1602 WASHINGTON AVE.  
HOUSTON, TEXAS 77007  
TEL: (713) 868-0081  
FAX: (713) 861-2951

-B-

July 27, 2020

Devin Cole  
SPN #02145549  
1200 Baker St. 5-H-1  
Houston, TX 77002

Re: State of Texas v. Devin Cole  
No. 1666250; 184<sup>th</sup> District Court.  
Harris County, Texas.

Dear Mr. Cole:

The 184<sup>th</sup> District Court ordered a psychiatric evaluation in your case because there was reason to believe that mental illness may be a defensive issue. The evaluation has not been completed as of today's date. Mental health evaluations have been substantially delayed due to unavailability of trained personnel during the COVID epidemic. Accordingly the court has reset your case to August 26.

The surveillance video from Katz's Deli proved to be inconclusive. However, I have viewed the bodycam video of the principal arresting officer, Victor Regla. The video does not actually show you chasing the manager of Katz's with a knife. However, the manager tells the police on the video that he saw you slashing tires in the Katz' parking lot and chased after you. He says he picked up your backpack and you turned around and chased him with a knife.

On the video you appear to be screaming incoherently. It seems that you were either intoxicated or suffering some sort of mental episode. That is why it is very important to have the psychiatric evaluation which may assist in your defense.

Concurring/Corroborating Statement  
by a Licensed Member of the Bar  
of Texas whom has reviewed the  
video evidence and factually agrees

Very truly yours,

Thomas J. Lewis

file

VIA REGULAR MAIL

with Defendant - Devin Paul Cole.

Devin. Cole

- B -

10/23/20

APPLICATION FOR SUBPOENA BY STATE FOR WITNESS IN THE DISTRICT COURT.  
Dana Nazarova- March 13, 2020

CAUSE NO. 166625001010 003

THE STATE OF TEXAS  
VS..  
DEVIN PAUL COLE

IN THE 184 DISTRICT COURT  
OF HARRIS COUNTY, TEXAS  
OFFENSE AGG ASSAULT W/DEADLY  
WEAPON

Please issue a subpoena in the above-styled cause for the following named witness(es) whose location and vocation in this State, as far as known, I state below:

Katz Deli Management , Vocation: Unknown, Service Type: Peace Officer  
616 Westheimer Rd Houston, TX 77006 713-521-3838, County: Harris

Special Instructions for Witness: Please provide our office with a copy of surveillance footage for an incident that occurred on February 27, 2020 involving a Manager Evan Arisan. The defendant was seen looking into the window of the restaurant at people eating. The manager went outside to tell the defendant to leave and saw the defendant in the parking lot area slash the tire of a parked vehicle. The defendant began to walk off leaving his backpack. The manager grabbed the backpack to give to police before the defendant came running up behind the manager and chased him with the knife.

Please produce said records on a CD, DVD or other electronic format in 14 business days from date subpoena received to:

Harris County District Attorney's Office  
Matilde Falcon  
500 Jefferson, Ste. 600  
Houston, Texas 77002

IN: OFFENSE REPORT NUMBER: 027248820

if found in your county, to appear before the Honorable ABIGAIL ANASTASIO, IN THE 184 DISTRICT COURT, Harris County, Texas, on INSTANTER at 8:45 A.M., to give evidence in behalf of the State and Defendant in the above styled cause wherein the State of Texas is the Plaintiff and DEVIN PAUL COLE is the Defendant, and to remain there from day to day, term to term until discharged by the Court. The testimony of said witness(es) is believed to be material to the State.



Dana Nazarova  
Assistant District Attorney 24104105  
Harris County, Texas  
713-274-5800  
NAZAROVA\_DANA@dao.hctx.net

Cause No. 1666250

The State of Texas

In The 184<sup>th</sup> District

vs.

§ Court of

Devin Paul Cole

§ Harris County, Texas

§

Defendant's Motion to Dismiss Prosecution

and Indictment Due to Serious Credibility Issues with Complainant, to wit: Evan Kartal Arisan

is a Convicted Pedophile/Sex Offender / Convicted of

Felon-Found Guilty of (2) Two Counts of Possession of Child Pornography - A Child Molester

ES0085-01-07

p.1

-D-

To The Honorable Abigail Anastasio, Presiding Judge:

Now Comes, Devin Paul Cole, Defendant in pro se pursuant to Faretta v. California, 422 U.S. 806, 835 (1975), and Evolving Standard's of Decency in a Civilized Society, and moves this Court to Dismiss this Prosecution and the indictment is based upon the Complainant is a Registered - Pedophile - Sex Offender - Child Molester and Convicted Felon. Defendant files this Motion to Dismiss Prosecution and Indictment Due to Serious Credibility Issues with Complainant, to wit: Evan Kartal Arisan, is a Convicted Pedophile / Sex Offender / Convicted of Felony Possession of Child Pornography in (2) Cases in Harris County.

Due to this Newly Discovered Evidence, that was just brought to Defendant's Attention on November 12<sup>th</sup>, 2020 by Ms. Patricia Fernandez, Assistant District Attorney pursuant to Brady v. Maryland, 373 U.S. 83, 833 Ct. 1194 (1963). Defendant herein respectfully moves this Court and the Harris County District Attorney's Office for immediate dismissal of this Prosecution and Indictment with Prejudice.

Defendant is "Not a Sex Offender!" Defendant

has never in his life of 55 years been charged with or convicted of a Sex Offense. And he never will!

Complainant Evan Kartal Arisan - Manager of Katz Deli on Westheimer has been convicted two times for Possession of Child Pornography in the 230<sup>th</sup> District Court of Harris County, Texas on 6/13/2014 in Cause Nos. 1409666 and 140-9665 and was sentenced to (2) two (2) year TDC terms of imprisonment. See Defendant's Exhibit A - Attached.

Two time Pedophile / Child Molester's are not credible. This exculpatory and impeaching evidence warrants Dismissal. These are heinous crimes.

Wherefore, Premises Considered, Defendant prays that the Court Grant this Motion and Dismiss this Prosecution and Indictment with Prejudice.

Executed and Sworn  
to on this 20<sup>th</sup> day  
of November, 2020."

11-20-2020

D.P.C.

Respectfully submitted,

Devin Paul Cole

Devin Paul Cole

Defendant/Pro Se

(Unsworn Declaration by Inmate)

"I, Devin Paul Cole, SPN# 02145549, an inmate confined in the Harris County Jail in Harris County Texas declare under penalty of perjury that the above and foregoing Defendants Motion To Dismiss Prosecution and Indictment Due To Serious Credibility Issues with Complainant, to wit: Evan Karjal Arigan is a Convicted Pedophile / Sex Offender / Convicted of Felony Possession of Child Pornography - A Child Molester and the factual allegations contained in same are in all things true and correct."

"Executed and Sworn to on this 20<sup>th</sup> day of November, 2020."

Devin Paul Cole  
Devin Paul Cole  
Defendant in Pro Se

( Certificate of Service)

"Service was mailed to ADA - Fernandez / Kim Ogg's Office on November 22<sup>nd</sup>, 2020." Devin P. Cole

December 4<sup>th</sup>, 2020

\* Mr. David J. Bradley, Clerk  
United States District Court  
Southern District of Texas  
P.O. Box 61010  
Houston, Texas 77208

Devin Paul Cole  
SPN #02145549  
Harris County Jail (3D-1B)  
1200 Baker Street  
Houston, Texas 77002

\* (Title 42 USC § 1983)  
(Civil Rights Complaint)

\* Re: Russell v. Harris County - Civil Act. # H-19-226  
The Honorable Lee H. Rosenthal, Presiding Judge; and  
the prompt filing of:

\* Plaintiff's Third Emergency Motion to Compel Com-  
passionate Release of Homeless Plaintiff On A No  
Cash Bail Bond Due to Age 55, Immuno compro-  
mised, Alarming Increase In COVID-19 Cases, No  
Evidence of Physical Harm to Anyone and Newly Dis-  
covered Evidence Under Brady v. Maryland that Com-  
plainant Evan Kartal Arisan Is a Two Time Convicted

(Child Molestor, Pedophile, Sexual Predator - Sex Offender.)

Dear Mr. Bradley, Clerk,

Please find enclosed the above and forgoing Plaintiff's Motion for Compassionate Release Due to COVID-19 Pandemic Worsening Dramatically, etc. to be promptly filed with your office and the Court on my behalf in accordance with Federal Law.

Please present this Motion to Judge Rosenthal as soon as possible and if possible provide a copy for Judge Eskridge to review as well.

Thank you for your kind assistance regarding this important legal matter.

Respectfully & sincerely,

Devin Paul Cole

Devin Paul Cole

Plaintiff

Harris County Jail

Devin Paul Cole  
SPN# 02145549  
Harris County Jail (3D-1B)  
1200 Baker Street  
Houston, Texas 77002

Mailed on 12/4/2020  
\* (LEGAL) \*

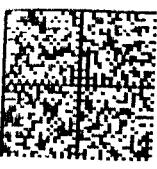
**APPROVED**  
NOV 25 2020

LEGAL INDIGENT MAIL  
Inmate Services Division  
Criminal Justice Command

\* Attn: Chief U.S. District Judge Lee H.  
Mr. David J. Bradley, Clerk  
United States District Court  
For The Southern District of Texas  
P.O. Box 61010  
Houston, Texas 77208

David J. Bradley, Clerk of Court

United States Courts  
Southern District of Texas  
FILED  
DEC 09 2020



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